

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-4142

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

FELIPE VALERIO PLASENCIA, a/k/a Philip
Walerio, a/k/a Philip Santiago, a/k/a Jose
Rodriguez, a/k/a Felipe Valerio, a/k/a Phillip
Valerio,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern
District of Virginia, at Alexandria. Claude M. Hilton, Chief
District Judge. (CR-03-400)

Submitted: August 25, 2004

Decided: September 28, 2004

Before LUTTIG, WILLIAMS, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

James W. Hundley, BRIGLIA & HUNDLEY, P.C., Fairfax, Virginia, for
Appellant. Paul J. McNulty, United States Attorney, Michael J.
Elston, Assistant United States Attorney, Kelli H. Ferry, Special
Assistant United States Attorney, Alexandria, Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Felipe Valerio Plasencia pled guilty to possession with intent to distribute cocaine, in violation of 21 U.S.C. § 841(a)(1) (2000), possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c) (2000), and possession of a firearm by a felon, in violation of 18 U.S.C. § 922(g)(1) (2000). The district court classified Plasencia as a career offender, see U.S. Sentencing Guidelines Manual § 4B1.1 (2003), and sentenced him to a 180-month term of imprisonment for the drug offense and sixty months each on the firearms offenses, all to be served consecutively, for a total sentence of 300 months of imprisonment. Plasencia appeals his sentence. We affirm.

Plasencia challenges the district court's decision to classify him as a career offender, asserting that his convictions for third-degree criminal possession of a controlled substance in New York state court are not controlled substance offenses, as defined by USSG § 4B1.2(b). Whether an offense is a controlled substance offense is a legal question that we review de novo. See United States v. Smith, 359 F.3d 662, 663-64 (4th Cir. 2004). We have thoroughly reviewed the submissions of the parties in this matter and the district court's sentencing decision and conclude that the court did not commit reversible error in determining that Plasencia was a career offender. We therefore affirm Plasencia's sentence. We dispense with oral argument because the facts and

legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED